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IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR

SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH, :

Plaintiff, : AFFIDAVIT OF PROBABLE CAUSE

vs. :

MICHAEL D. OSTLER : Case No:

DOB: June 9, 1951

: Judge

Defendant. :

STATE OF UTAH)

:SS

COUNTY OF SALT LAKE)

I, DIANA PARRISH, being first duly sworn upon oath, depose and state as follows:

1. I am a certified law enforcement officer of 26 years and am currently employed as a Securities Compliance Investigator for the Utah Department of Commerce, Division of Securities. Prior to my employment with the Division of Securities, I was employed by the Utah Attorney General's Office as an investigator and the South Salt Lake Police Department in various capacities. I am currently investigating possible violations of securities fraud statutes and related criminal code violations by MICHAEL D. OSTLER.

2. The facts set forth in this affidavit are based upon the results of an investigation during which I have collected and reviewed records from witnesses and other sources. I have received information from Suzan and Leonard Feraco, Jackie Saunders, Jann Wilcox and others.

PARTIES

3. MICHAEL D. OSTLER at all pertinent times maintained a residence in Utah but traveled to and from Arizona and Canada.

4. OSTLER's last known address is 4352 Aspen Cove, Cedar Hills, Utah 84062.

5. Utah court records reveal that OSTLER has been sued many times since 1995 and judgments entered against him total more than \$300,000.

6. Utah Division of Securities records reveal that OSTLER has never been licensed as a broker-dealer, agent, investment adviser, or investment adviser representative in Utah.

7. CANROSE REFINING OF ARIZONA, Inc., is an Arizona corporation. Its only member is OSTLER who is listed as the President and CEO. Canrose registered with the Arizona Corporation Commission on August 28, 2002. Canrose was administratively dissolved on March 24, 2005. Utah Division of Securities records reflect no registration, exemption from registration or notice filing in any manner with respect to securities offerings of Canrose.

SECURITIES FRAUD

8. Between 2003 and 2005 OSTLER raised more than \$130,000 from at least three Utah and one Arizona investor through advance fees paid by the investor for the issuance of a Letter of Credit.¹

9. OSTLER told investors they would receive multimillion dollar funding via Letters of Credit issued from a European bank if they paid an advance fee for the Letters of Credit which would be issued in the near future. OSTLER said his partner, Louis M. Bilhete, was an expert in Letters of Credit. OSTLER said once a Letter of Credit was issued, the investor could draw against it for business projects. OSTLER told investors in order to receive a Letter of Credit, the investor had to form a Limited Liability Company (LLC) in partnership with Canrose. OSTLER said the profits generated from the business projects would be split 50/50 between the newly formed LLC and Canrose. The Letters of Credit never issued and the investors were not refunded their money.

10. OSTLER told investors their money would be used for "all the expenses involved in setting up the Letters of Credit" including attorneys' fees, bank charges, and accounting. This statement was not true. OSTLER was the only signatory on

Canrose's bank account into which investor money was deposited. OSTLER used investor money for business, travel, food, and other expenses.

11. On August 5, 2005, OSTLER admitted to Michael Hines, Director of Enforcement for the Utah Division of Securities that OSTLER had collected \$160,000 from investors and spent \$130,000 of that money during the last six months in his mining business and for travel. OSTLER said "that's where I may have done something wrong." OSTLER said Bilhete was "putting up the Letters of Credit" but "no money has gone to Canada" and "no money goes to Louie [Bilhete]." Hines warned OSTLER, "... if you are not doing adequate disclosure then it becomes a second degree felony" and OSTLER may be in violation of state and federal law.

12. On September 7, 2007, OSTLER admitted to your affiant that he collected approximately \$600,000 from about ten investors and had spent the money on his salary, living expenses, travel, etc. OSTLER said Canrose was his company but he "set it up for Bilhete." OSTLER said he solicited investors at Bilhete's direction. OSTLER said he spent investors' money deposited into Canrose's account because Bilhete said he paid the fees in Europe so the investors' money was OSTLER's to use. OSTLER said, "I don't deny that [the investors] put the money in" and "I don't deny that the money was spent."

13. OSTLER told investors he and Bilhete owned Canrose, a statement that was not true. In fact, Bilhete's name does not appear on the Arizona Corporation Commission's web site as a principal in Canrose nor does Bilhete's name appear as a signatory on Canrose's bank account.

14. OSTLER told investor Jackie Saunders that he had a \$2.5 million Letter of Credit in a Texas bank which would mature January 2005 at which time OSTLER would get \$2.5 million in cash, a statement that was not true. In fact, OSTLER admitted to your affiant that no Letter of Credit ever issued.

15. OSTLER told investor Jackie Saunders that his father, brother, and friends were already using Letters of Credit, a statement that was not true. In fact, OSTLER admitted to your affiant that no Letter of Credit ever issued.

16. OSTLER told investor Jann Wilcox that if her Letter of Credit did not come in, he and Bilhete would pay back Wilcox with a Letter of Credit that was to mature in

2004, a statement which was not true. In fact, OSTLER admitted that no Letter of Credit ever issued and OSTLER and Bilhete did not return Jann Wilcox's advance fee.

17. OSTLER told investors that their Letters of Credit would issue within 30 days of investing, a statement that was not true. In fact, OSTLER admitted to your affiant that no Letter of Credit ever issued.

18. OSTLER told Jann Wilcox and Jewell Hansen that if Hansen borrowed \$40,000 on her home equity line to invest in a Letter of Credit, Hansen's home would be paid off in two weeks, a statement that was not true. In fact, Hansen never received a Letter or Credit, her investment funds were not returned, and Hansen lost her home.

19. On September 7, 2007, OSTLER admitted to your affiant that he does not know what a "Letter of Credit" is, and admitted he repeated what he learned from Bilhete about Letters of Credit when soliciting investors.

20. In connection with the offer and sale of an investment contract to at least three Utah investors and one Arizona investor, OSTLER failed to disclose material information normally found in a prospectus, including, but not limited to the following: information regarding the business and operating history of Canrose; the true identities of Canrose's principal; Canrose's financial statements; the track record of Canrose to prior and current investors; the risks associated with investing; whether OSTLER had been involved in certain legal proceedings, such as civil law suits, bankruptcies, and/or violation of state or federal securities law; any conflicts of interest that OSTLER may have with regard to the investment; and that the investment opportunity was a security not registered with the Utah Division of Securities. In addition, OSTLER failed to tell later investors that he had been warned by Michael Hines of the Utah Division of Securities on August 5, 2003 that, "If you are collecting money from anyone in a profit-sharing venture, you are offering and selling and that's a third degree felony if the transaction is not registered" and that OSTLER may be in violation of state and federal law.

21. Investors sustained more than \$130,000 in losses.

22. Investment contracts are securities as defined by Utah Code Annotated §61-1-13.

COUNT 1

SECURITIES FRAUD, a second degree felony

(Jann Wilcox)

23. Jann Wilcox said she first heard about the investment opportunity in Canrose Letters of Credit from a friend, Randy Isaac, at Wilcox's home in Salt Lake City, Utah. Isaac told Wilcox Letters of Credit could be used for draws of cash to invest in real estate purchases. Wilcox said she gave Isaac a check for \$5,000 on May 23, 2003 to share in Isaac's \$2.5 million Letter of Credit through Canrose. After more discussions with Isaac, Wilcox said she learned the Canrose investment was through OSTLER, someone Wilcox knew from high school.

24. Sometime between May 23 and July 29, 2003, Wilcox said she drove to Wendover, Utah with her boyfriend, Jim Williams, to meet with OSTLER (the Wendover meeting). During dinner in Wendover, OSTLER told Wilcox and Williams the investment was through Bilhete. OSTLER said in order to participate, Wilcox would need to form an LLC with Canrose. OSTLER said for a minimum of \$15,000, Wilcox could get \$2.5 million in funding for her LLC through a Letter of Credit. OSTLER said Wilcox's \$15,000 would be used for "all the expenses involved in setting up the Letter of Credit "including attorneys' fees, bank charges, and accounting." OSTLER said when the Letter of Credit comes in, Wilcox could use it like a line of credit for any investment or business venture she wished. OSTLER said after two years the Letter of Credit would mature and, at that time, profits from Wilcox's investments would be split 50/50 with Canrose. In addition, a 3% bank fee for the Letter of Credit would be split between Wilcox and Canrose. OSTLER told Wilcox that if the \$2.5 million in Letter of Credit did not come in, he and Bilhete "would pay back [Wilcox's] investment with a Letter of Credit that was to mature in 2004."

25. Wilcox said she was so excited about the investment she contacted family members and asked them to participate. Wilcox said she contacted her sister, Suzan

Feraco, and repeated all that OSTLER told her about the investment. Wilcox offered to make Feraco and Feraco's husband, Leonard, part of Wilcox's LLC.

26. On July 29, 2003, Wilcox said she borrowed \$15,000 from her mother, Jewell Hansen, to invest with OSTLER.

27. Wilcox said she collected a \$15,000 check from Suzan and Leonard Feraco and deposited it along with \$15,000 check from her mother into Canrose's account at Bank One branch office in Salt Lake County, Utah on July 30, 2003. Wilcox said OSTLER promised her a \$7.5 million Letter of Credit for the investment but did not say when she should expect the Letter of Credit.

28. Bank records reveal that two checks were deposited into Canrose's account on July 30, 2003 (Leonard Feraco's \$15,000 check and Jewell Hansen's \$15,000 check) bringing the account balance to \$30,772.95. Between July 30 and August 14, 2003 money from the account was used in the following manner: Approximately \$3,330 was withdrawn at ATMs; \$933 was spent on travel; \$1,627 went to Mike Little; \$3,337 went to T-Mobile; \$3,300 was transferred to Ostler Mining; \$4,089 went to people who appear to be OSTLER's relatives; \$3,304 went to Wheeler Machinery; and \$4,842 was used elsewhere. During this period there was only one deposit of \$5,000 from Steve Eldridge. On August 14, 2003, the account had a balance of \$7,159.39.

29. Wilcox said she formed a company, J. Hansen Investments, LLC, and registered it with the Utah Division of Corporations on August 1, 2003. Wilcox is listed as a member and registered agent. Canrose Refining of Arizona, Inc. is listed as a member.

30. On or about August 15, 2003, Wilcox said she collected a \$7,500 check from Suzan and Leonard Feraco drawn on Utah Central Credit Union and made payable to Canrose Refining of Arizona. Wilcox said she purchased an official check from Utah Central Credit Union for \$2,500 payable to Canrose and deposited both checks into Canrose's account at a Bank One branch office in Salt Lake County, Utah. Wilcox said she also made arrangements with Randy Isaac and OSTLER to have the \$5,000 she gave to Isaac transferred to her Letter of Credit.

31. Bank records reveal that on August 15, 2003, \$10,000 was deposited into Canrose's Bank One account (\$7,500 from Leonard Feraco and \$2,500 from Wilcox) bringing the account balance to \$17,159.39. Between August 15 and August 26, 2003 the account balance dropped to \$243.63. The money was spent on the following: Approximately \$367 was withdrawn at ATMs; \$2,199 was travel related; \$787 went to people who appear to be relatives of OSTLER while others received \$2,497; Mike Little received \$2,500; Wheeler Machinery received \$2,400; America First Mortgage \$470; AGI insurance \$100; and \$5,5593 was spent on items that could not be readily classified.

32. On August 18, 2003, Wilcox said she put \$1,000 earnest money down on property in Mesquite, Nevada. Wilcox said she spoke to OSTLER before placing the earnest money. OSTLER told Wilcox to proceed with the purchase because her Letter of Credit would be funded in two weeks. Wilcox said she lost her earnest money because the Letter of Credit did not come in as OSTLER promised.

33. On August 25, 2003, Hines spoke to Wilcox by phone about OSTLER and Canrose. Wilcox told Hines that she "put in" \$15,000 "for fees to set up a Letter of Credit account with the bank." Wilcox said she expected to get \$2.5 million in funding but did not expect to get her \$15,000 back. Wilcox said her sister, Suzan Feraco, also put in money.

34. Wilcox said on or about September 24, 2003, she and her mother, Jewell Hansen, participated in a three-way phone call with OSTLER. During the phone call, OSTLER solicited Hansen to invest \$40,000.

35. In June 2004, Wilcox said she met with OSTLER and Bilhete in Salt Lake City. Also present were Isaac, Suzan and Leonard Feraco, and others. At the meeting, Bilhete told Wilcox that her money was safe and he was leaving for Europe that week to bring in the funds. OSTLER and Bilhete said Wilcox's money was in the bank and would be paid out when the Letters of Credit arrived at a specified bank.

36. Wilcox said none of the promised Letters of Credit came through and she has requested the return of her money several times in person to OSTLER and by email to OSTLER and Bilhete.

37. Prior to investing, OSTLER did not provide Wilcox with any disclosure documents or information normally found in a prospectus.

- a. how long Canrose had been in business;
- b. the identities of Canrose principals;
- c. financial statements;
- d. competition;
- e. capitalization;
- f. the track record of Canrose to its investors;
- g. risk;
- h. the number of investors in Canrose;
- i. suitability factors for investors;
- j. the involvement of Canrose or any of their principals in legal proceedings, including bankruptcy and prior violations of state or federal securities laws; and
- k. whether the investment contract OSTLER offered were registered or exempt from registration.

38. OSTLER did not mention, among other things, that funds deposited into Canrose's account would not be used for fees associated with bringing in a Letter of

Credit but would be used by OSTLER for travel and living expenses among other things and that no Canrose Letter of Credit had ever issued.

39. Wilcox said she invested for profit and had no role in management of Canrose.

40. Wilcox said her loss is \$22,500.

COUNT 2

SECURITIES FRAUD, a second degree felony

(Suzan and Leonard Feraco)

41. Leonard Feraco said he and his wife, Suzan, met with Wilcox, OSTLER, and Jackie Saunders at Wilcox's home in Salt Lake City prior to July 30, 2003. Leonard Feraco said at the meeting OSTLER told the group how Letters of Credit worked. OSTLER said in order to participate an investor would need to form an LLC with Canrose. OSTLER said he and his partner, Louis Bilhete, owned Canrose. OSTLER said Bilhete was the money man and Bilhete was helping OSTLER with the Letters of Credit. OSTLER said for \$15,000 an investor would get a \$2.5 million Letter of Credit which could be used to invest in real estate or other ventures. OSTLER said the LLC's profit would be split between the LLC and Canrose. OSTLER said the investment was "a for sure thing" and there wouldn't be any problems.

42. Leonard Feraco said he and his wife discussed the investment and decided to go forward as part of Wilcox's group/LLC. Leonard Feraco said the money used to invest came from the Feraco's home equity line, something Wilcox and OSTLER did not know.

43. Leonard Feraco said he and his wife purchased a cashier's check for \$15,000 payable to Canrose Refining of Arizona on July 30, 2003 and gave the check to Wilcox.

44. Bank records reveal that two checks were deposited into Canrose's account on July 30, 2003 (Leonard Feraco's \$15,000 check and Jewell Hansen's \$15,000 check) bringing the account balance to \$30,772.95. Between July 30 and August 14, 2003 money from the account was used in the following manner: Approximately \$3,330 was withdrawn at ATMs; \$933 was spent on travel; \$1,627 went to Mike Little; \$3,337 went to T-Mobile; \$3,300 was transferred to Ostler Mining; \$4,089 went to people who appear to be OSTLER's relatives; \$3,304 went to Wheeler Machinery; and \$4,842 was used elsewhere. During this period there was only one deposit of \$5,000 from Steve Eldridge. On August 14, 2003, the account had a balance of \$7,159.39.

45. On December 12, 2003, Leonard and Suzan Feraco borrowed \$25,000 against their home equity line and deposited the \$25,000 check into Canrose's account at a Bank One branch office in Salt Lake County, Utah. Leonard Feraco said with each investment, Wilcox said OSTLER promised bigger and bigger Letters of Credit. Feraco said the last \$25,000 brought the total promised Letters of Credit into the millions of dollars.

46. Leonard Feraco said OSTLER did not provide any paperwork on the investment.

47. Prior to investing, OSTLER did not provide Leonard and Suzan Feraco information normally found in a prospectus or information about:

a. how long Canrose had been in business;

b. the identities of Canrose principals;

c. financial statements;

d. competition;

e. capitalization;

f. the track record of Canrose to its investors;

g. risk;

h. the number of investors in Canrose;

i. suitability factors for investors;

j. the involvement of Canrose or any of their principals in legal proceedings, including bankruptcy and prior violations of state or federal securities laws; and

k. whether the investment contract OSTLER offered were registered or exempt from registration.

48. OSTLER did not mention, among other things, that funds deposited into Canrose's account would not be used for fees associated with bringing in a Letter of Credit but would be used by OSTLER for travel and living expenses among other things and that no Canrose Letter of Credit had ever issued.

49. None of Leonard and Suzan Feraco's \$47,500 has been refunded.

COUNT 3

THEFT, a second degree felony

(Suzan and Leonard Feraco)

50. Bank records reveal that on December 12, 2003, a \$25,000 check from Suzan Feraco was deposited into Canrose's account bringing the balance to \$25,044.96. Between December 12 and December 24, 2003 no other deposits were made to the account and charges to the account brought the balance down to \$3,717.08. Of the charges to the account, approximately \$3,260 was withdrawn at ATMs; \$928 was spent on food, gas, and travel; \$423 was spent at Burlington Coat Factory; \$71 was spent on utilities; \$3,100 was transferred to other accounts controlled by OSTLER; \$3,500 was paid to Michael OSTLER; \$5,000 was spent on a Chevy truck at Larry Miller Chevrolet; \$2,560 was paid to other individuals; and \$2,392 was spent on insurance, a passport, taxes and businesses such as Universal Rewind and Anachemia Science.

51. Suzan and Leonard Feraco did not receive a Letter of Credit from Canrose nor did OSTLER return their money.

52. OSTLER obtained and exercised unauthorized control over Suzan and Leonard Feraco's funds with the intent to permanently deprive them thereof.

COUNT 4

SECURITIES FRAUD, a second degree felony

(Jewell Hansen)

53. Wilcox said on or about September 24, 2003, she and her mother, Jewell Hansen, participated in a three-way phone call with OSTLER. Wilcox said she was at her home in Salt Lake City and her mother was in Pleasant Grove, Utah. During the phone call, OSTLER repeated all that he said to Wilcox at the Wendover meeting: the investment was through Bilhete; to participate an investor would need to form an LLC with Canrose; for a \$15,000 fee an investor could get \$2.5 million Letter of Credit; the \$15,000 fee would be used for expenses involved in setting up the Letter of Credit including attorneys' fees, bank charges, and accounting; when the Letter of Credit issued, the investor could use it like a line of credit for investing or business purposes; after two years the Letter of Credit would mature and then the LLC's profits would be split 50/50 with Canrose along with a 3% bank fee; and if the Letter of Credit did not come in, OSTLER and Bilhete would refund the investors money with a Letter of Credit that was to mature in 2004.

54. Wilcox said OSTLER knew Hansen was a 73-year-old widow, living on a fixed income, and that any money Hansen might invest would be drawn on Hansen's home equity line. Wilcox said OSTLER talked Hansen into drawing out all the equity in her home with the promise Hansen would get her home paid off in two weeks.

55. Wilcox said at the time of the phone call with Hansen, OSTLER was scrambling to get the last bit of money he needed to bring in the Letters of Credit. Wilcox said OSTLER promised her a \$10 million Letter of Credit for the \$40,000 Hansen borrowed on her home equity line. Wilcox said OSTLER assured her there was no way Hansen would lose her money. OSTLER said, "Trust me Jann, this will be the best thing that ever happened. Everyone will be happy." and "You're taking care of your family."

56. Wilcox said she went with her mother to get the home equity check from her mother's bank. The \$40,000 check, dated September 22, 2003, was made payable to Canrose Refining of Arizona. Wilcox said she deposited her mother's money into Canrose's account at Bank One branch office in Salt Lake County on September 24, 2003.

57. Bank records reveal that on September 24, 2003, a \$40,000 check from Jewell Hansen was deposited into the Canrose account bringing the balance to \$57,449.94. Between September 24 and December 8, 2003 there were more than 230 transactions charged to the account, most less than \$200, leaving the balance at \$44.96. Approximately \$10,278 was spent on gas, travel and food; \$10,402 was withdrawn at ATMs; \$6,944 was paid to individuals; \$3,312 was spent on utilities; \$1,200 went to what appears to be relatives of OSTLER; \$5,600 was paid to Premier Excavation; \$8,000 was transferred to other account controlled by OSTLER; and \$13,752 was spent at Home Depot, P&J Ceramics, Northern Shore, Bedrock Supply, Zeebest Plastics, Anachemia Science and other businesses.

58. Prior to investing, Wilcox said OSTLER did not provide Hansen with information normally found in a prospectus or information about:

- a. how long Canrose had been in business;

- b. the identities of Canrose principals;
- c. financial statements;
- d. competition;
- e. capitalization;
- f. the track record of Canrose to its investors;
- g. risk;
- h. the number of investors in Canrose;
- i. suitability factors for investors;
- j. the involvement of Canrose or any of their principals in legal proceedings, including bankruptcy and prior violations of state or federal securities laws; and
- k. whether the investment contract OSTLER offered were registered or exempt from registration.

59. OSTLER did not mention, among other things, that funds deposited into Canrose's account would not be used for fees associated with bringing in a Letter of Credit but would be used by OSTLER for travel and living expenses among other things and that no Canrose Letter of Credit had ever issued.

60. Wilcox said OSTLER has not returned any of Hansen's money.

COUNT 5

SECURITIES FRAUD, a second degree felony

(Jackie Saunders)

61. Jackie Saunders said she first heard about Canrose from Wilcox at a hair salon located in Murray, Salt Lake County, Utah in August 2003. Saunders said Wilcox and her sister, Suzan Feraco, own the salon and both were already Canrose investors. Wilcox told Saunders that OSTLER was looking for more investors to "buy into" Canrose. Wilcox said there were Letters of Credit in which Saunders could become involved through Canrose and that money obtained from Letters of Credit could be used to invest in real estate deals. Wilcox suggested Saunders call someone from the company.

62. A few days after her salon appointment, Saunders met with OSTLER at the Phoenician in Phoenix, Arizona, a meeting arranged by Wilcox. Present at the meeting were Saunders, OSTLER, Wilcox, and Tom Shultz. OSTLER told Saunders that she needed to set up an LLC in order to "buy" into and participate in Canrose's lending program. OSTLER explained the lending program worked through Letters of Credit and money lent to the LLCs against the Letters of Credit could be used for anything. OSTLER led Saunders to believe Canrose was his company and made the following statements:

- a. Saunders should set up an LLC.
- b. Saunders/Sunrise2 needed the LLC in place in order to "buy into" the program.
- c. Saunders/Sunrise would receive a Letter of Credit from out of the country.
- d. The Letter of Credit would be held by Bank One in Arizona in Saunders/Sunrise's name.

e. When the Letter of Credit was in place, Saunders/Sunrise could get money "issued" against the Letter of Credit to use in any way Saunders/Sunrise deemed appropriate.

f. Saunders/Sunrise could use the cash issued against the Letter of Credit to make loans, invest, buy real estate, or pay off debt.

g. After two years, Saunders/Sunrise and Canrose would decide whether to keep or sell the investments Saunders/Sunrise made.

h. Profit from any investment sold would be split 50/50 between Saunders/Sunrise and Canrose.

i. When Saunders/Sunrise contracts with Canrose were complete, the Letter of Credit would arrive at Bank One within 30 days.

j. Saunders/Sunrise would need to pay Canrose \$15,000 to "help" bring in the Letter of Credit.

k. Saunders/Sunrise would receive a \$2.5 million Letter of Credit for \$15,000.

l. Canrose was in the gold mining business.

m. OSTLER's partner, Bilhete, was a multi-billionaire and an expert in Letters of Credit.

n. OSTLER had a \$2.5 million Letter of Credit in a Texas bank. The Letter of Credit given to OSTLER by Bilhete would "mature in January 2005" and then OSTLER would get \$2.5 million in cash.

o. OSTLER's father, brother, and friends were already using Letters of Credit.

p. Some Letters of Credit had funded and others would soon fund.

q. If, for some reason, Saunders' Letter of Credit did not fund, Saunders would get her money back.

63. Saunders said she did not receive any paperwork at the Phoenician meeting but, based on what OSTLER said, she decided to invest. Saunders said over the next several weeks there were many phone calls between OSTLER and Saunders during which OSTLER helped Saunders form her company, Sunrise. Saunders said she was in Arizona during these calls but OSTLER's location varied between Utah, Arizona, and Canada.

64. On September 12, 2003, Saunders filed Sunrise's Articles of Organization with the Arizona Corporation Commission. Also, on September 12, 2003, Saunders opened an account at Bank One for Sunrise. Saunders and OSTLER are listed as members of Sunrise on the bank's paperwork.

65. On September 12, 2003, Saunders, as president of Sapphire Developments Inc. (a corporation Saunders had in place prior to meeting OSTLER), entered into an agreement with Canrose. Saunders met OSTLER at Bank One in Arizona where she and OSTLER signed the agreement. Saunders said a bank employee, Trini DeMarco, may have been present. The agreement states:

SAPPHIRE will make an initial capital contribution of Fifteen Thousand Dollars (\$15,000) to Sunrise in exchange for Two Million Five Hundred Thousand Dollars (\$2,500,000) in letters of credit . . . to be issued in "good funds" to SUNRISE no later than thirty (30) days from the execution date of this Agreement . . .

The agreement also states:

In the event of default . . . , CANROSE agrees to return the entire initial capital contribution amount of Fifteen Thousand Dollars (\$15,000) to SAPPHIRE and/or

JACKIE SAUNDERS, in her capacity as Director of SAPPHIRE, no less than [sic] thirty-seven (7) [sic] days following the execution of this agreement.

66. On September 12, 2003, Saunders wrote a check for \$15,000 drawn on her savings account at Cyprus Credit Union in Utah and deposited the check into Sunrise's account at Bank One in Phoenix, Arizona. On September 17, 2003, Saunders said she transferred \$15,000 from Sunrise's account to Canrose's account at Bank One in Arizona, by faxing an authorization letter to Trini DeMarco at Bank One in Phoenix, Arizona.

67. Bank records reveal that Canrose's account had a balance of \$12,714.773 before Saunders' transfer. Saunders' transfer brought the account balance to \$27,714.77. After Saunders' deposit, money was used to pay AIG Agency Auto, Bedrock Supply, Home Depot, dining, and \$700 was transferred to Ostler Mining and Investments. The balance on September 23, 2003, was \$17,449.94.

68. In October or November, Saunders said she received a phone call from OSTLER. OSTLER said if Saunders invested another \$5,000 she would receive an \$8 million Letter of Credit.

69. On December 2, 2003, Saunders received a fax from OSTLER in which OSTLER wrote, "Please call me. I need to know if you have made your decision or not. This has become a time sensitive issue and I just need to know. Thanks, Michael Ostler 801-319-8086."

70. On December 24, 2003, Saunders entered into a second agreement with OSTLER. As in the September agreement, the December agreement is signed by Saunders and OSTLER. The agreement states Saunders made an "additional capital contribution of Five Thousand Dollars (\$5,000.00) to SUNRISE in exchange for Eight Million Three Hundred and Thirty Three Thousand Three Hundred Dollars and Thirty Three cents (\$8,333,333.33) in letters of credit . . ." The agreement was executed via fax and overnight delivery. Saunders was in Arizona at the time and faxed her documents to OSTLER in Orem, Utah.

71. On December 26, 2003, Saunders transferred \$5,000 from Sunrise's account to Canrose's account at Bank One in Arizona.

72. Prior to investing, OSTLER did not provide Saunders with any disclosure documents or information about:

- a. how long Canrose had been in business;
- b. the identities of Canrose's principals;
- c. financial statements;
- d. competition;
- e. capitalization;
- f. the track record of Canrose to its investors;
- g. risk;
- h. the number of investors in Canrose;
- i. suitability factors for investors;
- j. the involvement of Canrose or any of their principals in legal proceedings, including bankruptcy and prior violations of state or federal securities laws; and
- k. whether the investment contract OSTLER offered were registered or exempt from registration.

73. OSTLER did not mention, among other things, that funds deposited into Canrose's account would not be used for fees associated with bringing in a Letter of Credit but would be used by OSTLER for travel and living expenses among other things and that no Canrose Letter of Credit had ever issued.

74. Saunders said OSTLER has not returned any of her money and her loss is \$20,000.

COUNT 6

THEFT, a second degree felony

(Jackie Saunders)

75. On December 26, 2003, Saunders invested \$5,000 in Canrose, via bank transfer, from Sunrise's account to Canrose's account at Bank One, bringing the account balance to \$8,717.08. Ostler used Saunders's money for the following: Withdraw of \$3,210 in cash, \$210 on fuel, \$110 on dining and groceries, and \$5,000 was paid to Larry Miller Chevrolet. The balance in the account as of January 12, 2004 was a negative \$1,949.00.

76. Saunders did not receive a Letter of Credit from Canrose nor did OSTLER return her money.

77. OSTLER obtained and exercised unauthorized control over Saunders's funds with the intent to permanently deprive her thereof.

COUNT 7

PATTERN OF UNLAWFUL ACTIVITY, a second degree felony

78. Commencing on or about May 2003, OSTLER engaged in conduct which constituted the commission of at least three episodes of unlawful activity as defined in Utah Code Ann. §76-10-1603. OSTLER: (1) received proceeds derived, directly or indirectly, from a pattern of unlawful activity as more fully defined in Counts 1 through 6 above, in which he participated as principal, or he used or invested, directly or indirectly, any part of that income, or the proceeds derived from the investment or use of those proceeds, in the acquisition of any interest in, or establishment or operation of, any enterprise; (2) through a pattern of unlawful activity acquired or maintained, directly or indirectly, any interest in or control of any enterprise; or (3) was employed by, or associated with any enterprise and conducted or participated, whether directly or indirectly, in the conduct of that enterprise's affairs through a pattern of unlawful activity. The unlawful activity included three or more violations of securities fraud. This is a violation of Utah Code Ann.

§76-10-1603(5), a second degree felony.

SUMMARY

79. Based on my review of the evidence there is probable cause to believe that OSTLER committed the crimes of:

SECURITIES FRAUD

a second degree felony, 4 counts

THEFT

a second degree felony, 2 counts

PATTERN OF UNLAWFUL ACTIVITY

a second degree felony, 1 count

DATED this day of , 2007.

Diana Parrish, Affiant

SUBSCRIBED AND SWORN before me this

day of _____, 2007.

JUDGE, THIRD DISTRICT COURT

1A Letter of Credit is a instrument or document issued by a bank guaranteeing the payment of a customer's draft up to a stated amount for a specific period. It substitutes the bank's credit for the buyer's credit and eliminates the seller's risk. It is used extensively in international trade. (See: Barron's Financial Guides: Dictionary of Financial and Investment Terms.)

2Sunrise is the LLC Saunders set up in order to participate in the Canrose Letter of Credit program.

3Kevin Wright deposited \$30,000 into the account on 08/27/2003. The balance on 09/16/2003 is what remained of Wright's money.